

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA**

THE CITY OF HUNTINGTON,

Plaintiff,

v.

AMERISOURCEBERGEN DRUG
CORPORATION, et al.,

Defendants.

CABELL COUNTY COMMISSION,

Plaintiff,

v.

AMERISOURCEBERGEN DRUG
CORPORATION, et al.,

Defendants.

Civil Action No. 3:17-01362

Hon. David A. Faber

Civil Action No. 3:17-01665

Hon. David A. Faber

NOTICE OF THE FBI AND DEA

The United States submits this Notice in accordance with the Special Master's Order, issued August 18, 2020, concerning the initial review by the DEA and FBI of documents furnished by Plaintiffs on July 29, 2020. Dkt. 873. The United States further reserves its rights to conduct a more thorough review of these documents, and to assert any other and further objections.

On August 17, 2020, Plaintiffs produced an additional batch of documents to the United States for review by the FBI and DEA, similar to those documents furnished on July 29, 2020 that are subject of this Notice. DEA and FBI have begun review of this second set of documents, which contains thousands of additional files. The United States requests to and including

September 17, 2020 to conduct its initial review and file a notice substantially similar to this Notice in connection with the August 17, 2020 documents.

Based on the preliminary review of the documents provided by plaintiffs on July 29, 2020, the United States has concluded that the sensitivities contained in a number of these documents at issue cannot be sufficiently protected through a Highly-Confidential Attorney-Eyes-Only Designation.

Annexed hereto as Exhibit 1 is a list of documents initially identified as under court seal or likely under court seal.

Annexed hereto as Exhibit 2 is a list of documents initially identified as relating to likely ongoing law enforcement investigations.

Annexed hereto as Exhibit 3 is a list of documents initially identified as subject to attorney-client, deliberative process, and government work product privileges.

Annexed hereto as Exhibit 4 is a list of documents initially identified as subject to the law enforcement privilege.

Annexed hereto as Exhibit 5 is a list of documents initially identified that identify confidential informants and undercover federal agents, or could lead to the identification of confidential informants and undercover federal agents.

Annexed hereto as Exhibit 6 is a list of documents initially identified that contain DEA and FBI operational plans which are subject to the law enforcement privilege and disclosure of which could also lead to the identification of confidential informants and undercover federal agents.

Annexed hereto as Exhibit 7 is a list of documents initially identified as appropriate for production pursuant to a Highly-Confidential Attorney-Eyes-Only Designation. On August 22,

2020, counsel for the United States informed Plaintiffs' counsel that Plaintiffs may produce 1,953 of the documents listed in Exhibit 7 pursuant to a Highly-Confidential Attorney-Eyes-Only Designation upon their redaction of personally-identifiable information.

Examples from those documents listed in each of Exhibits 1 through 6 will be submitted directly to the Special Master for *in camera* review.

Respectfully submitted,

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Deputy Assistant Attorney General

MICHAEL B. STUART
United States Attorney
Attorney for the United States
Acting Under Authority Conferred by 28 U.S.C. § 515

By: **/s/Fred B. Westfall, Jr.**
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CERTIFICATE OF SERVICE

I, Fred B. Westfall, Jr., Assistant United States Attorney, hereby certify that that on August 24, 2020, the foregoing **NOTICE OF THE FBI AND DEA** with the Court using the Court's CM/ECF system, which will send a copy thereof by email to all counsel of record.

/s/Fred B. Westfall, Jr.

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